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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,331	04/01/2004	Ray C. Minor	P69605US0	5342
136	7590	06/02/2005	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			BURCH, MELODY M	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/814,331	Applicant(s) MINOR, RAY C.	
	Examiner Melody M. Burch	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 19-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Handwritten mark

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I in the reply filed on 5/17/05 is acknowledged.
2. Claims 19-32 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/17/05.

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the outer sleeve extending over upper portions of the inner sleeve and the outer sleeve as recited in lines 8-9 of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to because element 20 is described in the specification as an embodiment but appears to be pointing to an object at the top of the pole. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

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and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: elements 21, 28', 50', 34', 38', 40', 39', and 32'. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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7. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

8. The disclosure is objected to because of the following informalities: a period should be placed at the end of the last line on pg. 6.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 1. The phrase "the outer sleeve extending over upper portions of the inner and outer sleeve" is indefinite. It is unclear how the outer sleeve extends over upper portions of the inner sleeve and itself. Clarification is required.

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Re: claim 1. The phrase "the inner sleeve" lacks proper antecedent basis. The claim previously recites an inner partial cylindrical sleeve and an inner sleeve axis. Examiner has interpreted the inner sleeve to be the same as the inner partial cylindrical sleeve. If Examiner's interpretation is correct, Examiner recommends the use of consistent claim terminology to avoid confusion. A similar issue exists with the phrase "the outer sleeve".

Re: claims 7 and 8. The phrase "the partitioning structures" in line 1 of the claims lacks proper antecedent basis.

Re: claim 13. The phrase "two internal partitions" and "two end portions" in the second to last line of claim 13 is indefinite. It is unclear to the Examiner whether "two internal partitions" and "two end portions" are intended to be the same or different from the partitioning panels and portions of the inner and/or outer sleeve based on the figures. Clarification is required.

The remaining claims are indefinite due to their dependency from claim 1.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 2, 5, 7, 8, 9, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4433592 to Tatsumi et al.

Re: claims 1, 2, 5, 7, 8, and 9. Tatsumi et al. show in figures 6 and 7 a pole

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vibration damping assembly capable of being mounted on a pole for damping wind induced pole vibration comprising: an inner partial cylindrical sleeve 56A having an inner sleeve axis defining the center of curvature of the inner sleeve with the inner partial cylindrical sleeve being dimensioned and shaped to fit in a mating manner over an upper end portion of a cylindrical pole having an axis defining the center of curvature of the cylindrical pole, an outer partial cylindrical sleeve 56B having an outer sleeve axis defining a center of curvature of the outer sleeve that is coextensive with the inner sleeve axis, a floor panel 56C extending between lower portions of the inner sleeve and the outer sleeve extending over upper portions of the inner sleeve and the outer sleeve (Examiner notes that upper and lower are relative terms and that for examining purposes objects shown in the area of "FIG. 6" are considered to be lower and objects shown in the area of "FIG. 7" are considered to be upper), a plurality of partitioning panels 64,66 extending vertically upwardly from the floor panel and connected to the inner sleeve and the outer sleeve to define damping weight receiving chambers 58 between adjacent partitioning panels and a freely movable damping weight 62 provided in each of the damping weight receiving chambers.

Re: claims 13 and 14. Tatsumi et al. show in figures 6 and 7 the limitation wherein the damping assembly is formed of first and second housing component half portions 56C and portion 56 that are fixedly connected together to cooperatively define the inner sleeve, the outer sleeve and the floor panel as shown in figure 6 with each housing component half portion including two internal partitions (56C including the two inner flange portions and 56 including elements 64 and 66) and two end portions (56C

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including the two outer flange portions and 56 including elements 56A and 56B,60) which respectively define opposite ends of each respective half portion, as best understood.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 3, 4, 6, 10, 15, 16, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsumi et al.

Re: claims 3, 4, 6, 10, 15, 16, 17, and 18. Tatsumi et al. describe the invention substantially as set forth above, but lack the specific material limitations.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the material of the balls to have been metal or lead or the planar panels be formed of aluminum or the half portions being formed of cast metal (aluminum) since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

15. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsumi et al. in view of US Patent 4655317 to Kolya et al.

Re: claim 11. Tatsumi et al. describe the invention substantially as set

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forth above, including the limitation of the damping weights being spherical balls, but are silent as to the damping weights being plastic coated.

Kolya et al. teach in col. 3 line 68 - col. 4 line 5 the limitation of a spherical body being coated with plastic.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the spherical balls of Tatsumi et al., to have been coated with plastic, as taught by Kolya et al., in order to provide a means of insulating sound.

Re: claim 12. Tatsumi et al. lack the limitation of the damping weights being metal or that they are coated with polyurethane.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the material of the balls to have been metal since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Kolya et al. teach in col. 3 line 68 - col. 4 line 5 the limitation of a spherical body being coated with polyurethane.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the spherical balls of Tatsumi et al., to have been coated with polyurethane, as taught by Kolya et al., in order to provide a means of insulating sound.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents: 3612222 to Minor, 4130185 to Densmore teach the user of pole vibration dampers, 2195041 to Von Schlippe, 2714161 to Featherstun, and 5724862 to Hannah et al. teach the use of damping assemblies including damping chambers with spherical balls.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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May 30, 2005

Melody M. Bucl
5/30/05